

REMARKS

Reconsideration of the Final Office Action mailed April 24, 2006, (hereinafter "instant Office Action") and withdrawal of the rejection of claims 21-27, 32 and 33 are respectfully requested.

In the instant Office Action, claims 1-88 are listed as pending, claims 1-20, 28-31 and 34-88 are withdrawn from consideration and claims 21-27, 32 and 33 are listed as rejected.

Applicants thank the Examiner for her time and helpful suggestions offered during the interview conducted on August 29, 2006. Below is a brief summary of the interview, as requested by the Examiner.

Applicants' agent and the Examiner discussed in general terms the rejections of claims 21-27, 32 and 33 under 35 U.S.C. §112, first paragraph, for lack of enablement for the atomic coordinates of an unbound version of a Tie-2 polypeptide or atomic coordinates of the complete polypeptide of Tie-2 and Inhibitor III complex and the rejections of claims 21, 22 and 26 under 35 U.S.C. §103(a) as allegedly being unpatentable over Chen et al (P/N 6,160,092) in view of *In re Gulack* (703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983)) and the rejection of claims 21-27 under 35 U.S.C. §103(a) as allegedly being unpatentable over Chen et al (P/N 6,160,092) in view of *In re Gulack* (703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983)), *In re Best* (195 USPQ 430) and *In re Fitzgerald* (205 USPQ 594) and Ziegler (P/N 5,447,860) and claims 21-27 under 35 U.S.C. §103(a) as being unpatentable over Chen et al. (P/N 6,160,092) in view of Vikkula et al. (Cell, 1996, Volume 87, pages 1181-1190) and *In re Best* (195 USPQ 430) and *In re Fitzgerald* (205 USPQ 594). With respect to the 35 U.S.C. §112, first paragraph, rejection, the Examiner and Applicants' agent discussed whether limiting claim 21 to for the atomic coordinates for residues 802-1124 of Tie-2 would overcome the rejection. In discussing the 35 U.S.C. §103(a) rejection, the Examiner suggested that in general one possibility to overcome a 103(a) rejection is to add additional steps to the claims that are not taught or suggested in the references.

The Examiner has maintained the rejection of claims 21-27, 32 and 33 under 35 U.S.C. §112, first paragraph, alleging that the specification, while being enabling for the atomic coordinates for residues 802-1124 of Tie-2 and Inhibitor III complex, does not reasonably provide enablement for the atomic coordinates of an unbound version of a Tie-2 polypeptide or atomic coordinates of the complete polypeptide of Tie-2 and Inhibitor III complex. Without

conceding to the correctness of the rejection and for the sole purpose of expediting prosecution of the instant application and to place it in condition for allowance, Applicants have amended claim 21 to limit it to those atomic coordinates for residues 802-1124 as specified in Figure 2. Based upon the foregoing, the rejection of claims 21-27, 32 and 33 under 35 U.S.C. §112, first paragraph, for lack of scope enablement is obviated and should be withdrawn.

The Examiner has maintained the rejection of Claims 21-27, 32 and 33 under 35 U.S.C. §112, first paragraph, as allegedly containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor, at the time the invention was filed, had possession of the claimed invention. The Examiner alleges that “due to the open claim language of ‘comprises’ in claim 21, this claim is directed to encompass amino acid sequences that do not meet the written description provision of 35 U.S.C. §112, first paragraph.” Without conceding to the correctness of the rejection and for the sole purpose of expediting prosecution of the instant application and to place it in condition for allowance, Applicants have amended claim 21 to replace the term “comprising” with “consisting of”

Based upon the foregoing, the rejection of claims 21-27, 32 and 33 under 35 U.S.C. §112, first paragraph, as allegedly containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor, at the time of the invention was filed, had possession of the claimed invention, is obviated and should be withdrawn.

The Examiner has maintained the rejection of claims 21, 22 and 26 under 35 U.S.C. §103(a) as allegedly being unpatentable over Chen et al (P/N 6,160,092) in view of *In re Gulack* (703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983)). Without conceding to the correctness of the rejection and for the sole purpose of expediting prosecution of the instant application and to place it in condition for allowance, Applicants have amended claim 21 to add the step of obtaining the crystal. Support for this amendment can be found, *inter alia*, at page 49, lines 19-28.

Based upon the foregoing, the rejection of claims 21, 22 and 26 under 35 U.S.C. §103(a) over Chen et al. in view of *In re Gulack* is obviated and should be withdrawn.

The Examiner has maintained the rejection of claims 21-27 under 35 U.S.C. §103(a) as allegedly being unpatentable over Chen et al (P/N 6,160,092) in view of *In re Gulack* (703 F.2d

1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983)), *In re Best* (195 USPQ 430) and *In re Fitzgerald* (205 USPQ 594) and Ziegler (P/N 5,447,860). As discussed above in the rejection of claims 21, 22 and 26 under 35 U.S.C. §103(a) as allegedly being unpatentable over Chen et al (P/N 6,160,092) in view of *In re Gulack* (703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983)), applicants have amended claim 21 to add the additional step of obtaining the crystal.

Based upon the foregoing, the rejection claims 21-27 under 35 U.S.C. §103(a) as allegedly being unpatentable over Chen et al (P/N 6,160,092) in view of *In re Gulack* (703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983)), *In re Best* (195 USPQ 430) and *In re Fitzgerald* (205 USPQ 594) and Ziegler (P/N 5,447,860) is obviated and should be withdrawn.

The Examiner has maintained the rejection of claims 21-27 under 35 U.S.C. §103(a) as being unpatentable over Chen et al. (P/N 6,160,092) in view of Vikkula et al. (Cell, 1996, Volume 87, pages 1181-1190) and *In re Best* (195 USPQ 430) and *In re Fitzgerald* (205 USPQ 594). As discussed above in the rejections of claims 21, 22 and 26 under 35 U.S.C. §103(a) as allegedly being unpatentable over Chen et al (P/N 6,160,092) in view of *In re Gulack* (703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983)) and the rejection claims 21-27 under 35 U.S.C. §103(a) as allegedly being unpatentable over Chen et al (P/N 6,160,092) in view of *In re Gulack* (703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983)), *In re Best* (195 USPQ 430) and *In re Fitzgerald* (205 USPQ 594) and Ziegler (P/N 5,447,860), applicants have amended claim 21 to add the additional step of obtaining the crystal

Based upon the foregoing, Applicants believe the rejection of claims 21-27 under 35 U.S.C. §103(a) as being unpatentable over Chen et al. (P/N 6,160,092) in view of Vikkula et al. (Cell, 1996, Volume 87, pages 1181-1190) and *In re Best* (195 USPQ 430) and *In re Fitzgerald* (205 USPQ 594) is obviated and should be withdrawn.

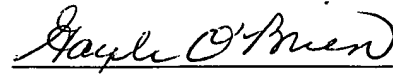
No fees are due for the instant amendment since the total number of claims after entry of the amendments hereinabove is not more than the total number of claims that Applicants have paid for to date.

Based upon the foregoing, Applicants believe that claims 21-27, 32 and 33 are in condition for allowance. Prompt and favorable action is earnestly solicited.

If the Examiner believes that a telephone conference would advance the condition of the instant application for allowance, Applicants invite the Examiner to call Applicants' agent at the number noted below.

Respectfully submitted,

Date: September 20, 2006



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